

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2310 - HB 2809

March 10, 2022

SUMMARY OF BILL: Establishes that a defendant is not eligible for the death penalty if the defendant suffered from a serious mental illness at the time of the alleged offense that, while not meeting the standard to be found not guilty by reason of insanity or incompetent to stand trial, significantly impaired the defendant's capacity to exercise rational judgment. Authorizes a defendant who was sentenced to the death penalty prior to July 1, 2022, to petition the court to resentence a defendant to life imprisonment without possibility of parole due to serious mental illness, if outlined criteria are met.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- The proposed legislation states that a defendant has a serious mental illness if the defendant has been diagnosed with:
 - Schizophrenia;
 - Schizoaffective disorder;
 - Bipolar disorder;
 - Delusional disorder; or
 - Post-Traumatic Stress Disorder.
- Based on information provided on the Department of Correction (DOC) website, there are currently 47 inmates on death row.
- According to the Comptroller of the Treasury's 2004 study on the costs and consequences of the death penalty in Tennessee, an offender spends an average of 13.22 years on death row.
- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis.
- In the event a court determines that a defendant sentenced to death prior to the effective date of this legislation had a serious mental illness at the time of the offense and is ineligible for a sentence of death, the cost associated with executing the defendant could be avoided; however, costs associated with imprisoning the defendant for life would be incurred. The net effect of such future events cannot be determined with reasonable certainty; however, any net impact resulting from prohibiting the death penalty in the outlined circumstances is estimated to be not significant.

- The proposed legislation requires a court to order an evaluation for any defendant who petitions the court to assert that the offender had a serious mental illness at the time of the offense.
- Per the language of the proposed legislation, the defendant is required to bear the burden of proof, by a preponderance of the evidence, that the defendant has or had a serious mental illness.
- Any impact to the operations of the courts, public defenders, and district attorneys will be absorbed utilizing existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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